



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Glenwood Springs Field Office
50629 Highways 6 and 24
Glenwood Springs, Colorado 81601
www.co.blm.gov



CATEGORICAL EXCLUSION

NUMBER: CO140_2006_144ce.ch

CASEFILE/PROJECT NUMBERS: 281001 / COC70303

PROJECT NAME: Silt Water Conservancy District Road right-of-way

LEGAL DESCRIPTION: NESE, Section 27, T. 4 S., R. 92 W., 6th PM

APPLICANT: Silt Water Conservancy District., contact is Bill West, (970) 876-2393

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a one-year road right-of-way 15' X 1,370' (COC70303) to Silt Water Conservancy District (SWCD) to improve an old road for heavy equipment to access a pipeline and siphon (on private land) for replacement. The access road is currently blocked by the above ground 48" pipeline, and would be again after the upgrades to the pipeline and siphon are completed.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for and is in conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Glenwood Springs Resource Management Plan.

Date Approved: January, 1984; revised in 1988; amended in November 1991 - Oil and Gas Leasing and Development - Final Supplemental Environmental Impact Statement; amended Nov. 1996 - Colorado Standards and Guidelines; amended in August 1997 - Castle Peak Travel Management Plan; amended in March 1999 - Oil and Gas Leasing & Development Final Supplemental Environmental Impact Statement; amended in November 1999 - Red Hill Plan Amendment; and amended in September 2002 – Fire Management Plan for Wildland Fire Management and Prescriptive Vegetation Treatment Guidance.

Decision Number/Page: Page 41, Utility and Communication Facility Management.

Decision Language: To respond in a timely manner to requests for utility and communication facility authorizations on public land while considering environmental, social, economic, and interagency concerns.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4, Number: E. Realty #17:

Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding or water well.

None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u> X </u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u> X </u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u> X </u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u> X </u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u> X </u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u> X </u>
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u> X </u>
8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	_____	<u> X </u>
9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.	_____	<u> X </u>
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.	_____	<u> X </u>
11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.	_____	<u> X </u>
12. Significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.	_____	<u> X </u>

Remarks/Mitigation:

Cultural Resources/Native American Concerns: Cultural Resource inventory (GSFO # 933) encompasses the proposed action. No historic properties or areas of Native American concern were identified and a determination of **“No Historic Properties Affected”** was made in

accordance with the NHPA, the National BLM/SHPO programmatic agreement and Colorado Protocol. However, the Education/Discovery needs to be added to the permit notifying the proponent of their responsibility to protect and preserve cultural resources; and notify the Authorizing Officer immediately if these resources are identified during this permitted action.

Invasive, Non-Native Species

The proposed action would issue a right-of-way permitting Silt Water Conservancy to improve an old road for access by heavy equipment. The surface disturbance associated with the road improvement would provide a niche for the invasion and establishment of noxious weeds and other invasive species. Although the project area has not been surveyed for noxious weeds, cheatgrass and other non-natives are known to occur within the vicinity of the proposed right-of-way, and these plants pose a moderate to high potential for invasion following construction.

Mitigation: In order to deter the establishment of invasive, non-native species, the following seed mix will be applied to all disturbed areas immediately following completion of the project.

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate (PLS lbs/ac)</u>
Western wheatgrass	Arriba	5.0
Indian ricegrass	Paloma	2.5
Bottlebrush squirreltail		<u>2.5</u>
TOTAL		10 PLS lbs

- The above application rate is for drilled seeding. In areas that cannot be drilled, broadcast seed at twice the application rate and cover ¼ to ½ inch deep with a harrow or drag bar.
- The seed will be certified free of noxious weeds. See the ROW Stipulations for a detailed description of seed certification requirements.
- A Standard Stipulation is attached requiring the project proponent to monitor for the presence of any Colorado-listed noxious weeds at least once or twice annually during the growing season for the life of the ROW grant. The project proponent will promptly treat and control any noxious weeds. A Pesticide Use Proposal must be approved by BLM prior to the use of herbicides.

Threatened, Endangered and Sensitive Species:

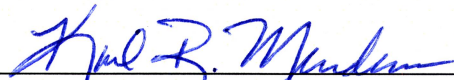
The area of the proposed action is not considered potential habitat for any Threatened, Endangered or BLM Sensitive plant species. The proposed action should have no direct, indirect, or cumulative impact on any of these species.

INTERDISCIPLINARY REVIEW:

<u>Name</u>	<u>Title</u>	<u>Area of Responsibility</u>
Cheryl Harrison	Archaeologist	Cultural Resources, Native American Religious Concerns
Tom Fresques	Wildlife Biologist	Terrestrial & Aquatic Wildlife, Special Status Wildlife Species
Carla Scheck	Ecologist	Invasive, Non-native Species, T&E Plants, Vegetation
Mike Kinser	Rangeland Mgmt Spec	Riparian Zones & Wetlands

DECISION AND RATIONALE: I have reviewed this CER and have decided to implement the proposed action. This action is listed in the Department Manual as an action that may be categorically excluded. I have evaluated the action relative to the 12 criteria listed above and have determined that it does not represent an exception and is, therefore, categorically excluded from further environmental analysis.

SIGNATURE OF AUTHORIZED OFFICIAL:


Karl R. Menden
for Associate Field Manager

DATE SIGNED:

9/11/2006

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY GRANT / TEMPORARY USE PERMIT

1. A right-of-way is hereby granted pursuant to Title V of the Federal land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder:

**Silt Water Conservancy District
PO Box 8
Silt CO 81652**

receives a right to construct, operate, maintain, and terminate an access road as shown on public lands (or federal land for MLA Rights-of-Way) described as follows:

NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 27, T. 4 S., R. 92 W., 6th PM.

- b. The right-of-way area granted here is **15 feet wide, 1,370 feet long** and contains **0.47 acres, more or less.**
- c. This instrument shall terminate on **December 31, 2007**, approximately **1 year** from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.
4. Terms and Conditions:
 - a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and 2880.
 - b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within **90 days**, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
 - c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
 - d. The stipulations, plans, maps, or designs set forth in Exhibits **A** and **B**, dated **September 8, 2006** attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
 - e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
 - f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

Signature of Holder

Signature of Authorized Officer

Title

Glenwood Springs Field Manager

(Date)

(Effective date of Grant)

STIPULATIONS / COC070303 / SILT WATER CONSERVANCY DISTRICT

1. The holder shall request a preconstruction conference with the authorized officer at least seven days prior to the commencement of construction under this grant. The contact person is Carole Huey at the Glenwood Springs Field Office, phone (970) 947-2804. One purpose of this conference is to determine if any special conditions will be required to limit environmental damage or insure surface stability and road drainage.
2. All activities shall be confined to the COC70303 right-of-way corridor.
3. The holder shall promptly remove and dispose in an authorized sanitary landfill, all waste generated by its activities. Waste includes, but is not limited to, human waste, trash, garbage, petroleum products, ashes and equipment. No burning of trash, brush, or any other material shall be allowed.
4. It is the holders responsibility to coordinate with all other rights-of-way holders and adjacent landowners to make sure any conflicts are resolved both with road improvement and future maintenance.
5. The Glenwood Springs Field Manager will be notified at least 30 days prior to relinquishment or expiration of the ROW grant. The holder shall contact the authorized officer to arrange a joint inspection of the ROW. This inspection shall be held to determine if the ROW is in acceptable condition. If it is not, then the holder shall be responsible for returning the ROW to a condition acceptable to the authorized officer. This must be accomplished before relinquishment or expiration of the ROW.
6. Road standards, culverts, etc shall conform to the designs in the application. The road shall adhere to BLM "Gold Book" standards, with an approximately 20' running surface. Road should be periodically re-graveled when ruts exceed 6 inches in depth or as directed by the Authorized Officer. Initial gravel application will be a minimum of 4 inches. Culverts will be installed during no flow or low flow conditions at drainage crossings and will be required to pass a 25-year or greater storm event. The 25-year storm event for the proposed action area is approximately 1.6 inches of precipitation in 6 hours.
9. All design, material, and construction, operation, maintenance and termination practices shall be in accordance with safe and proven engineering practices. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
10. This grant shall not be assignable without written permission of the authorized officer. This Grant may be renewed. If renewed, the Grant shall be subject to the regulation existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
11. Cultural Resources, Education/Discovery Stipulation:

All persons in the area who are associated with this project must be informed that if anyone is found disturbing historic, archaeological, or scientific resources, including collecting artifacts, the person or persons will be subject to prosecution.

Pursuant to 43 CFR 10.4(g), the BLM authorized officer must be notified, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), activities must stop in the vicinity of the discovery and the discovery must be protected for 30 days or until notified to proceed by the authorized officer.

If in connection with operations under this contract the project proponent, his contractors, subcontractors, or the employees of any of them, discovers, encounters or becomes aware of any objects or sites of cultural or paleontological value or scientific interest such as historic or prehistoric ruins, graves or grave markers, fossils, or artifacts, the proponent shall immediately suspend all operations in the vicinity of the cultural or paleontological resource and shall notify the BLM authorized officer of the findings (16 U.S.C. 470h-3, 36 CFR 800.112). Operations may resume at the discovery site upon receipt of written instructions and authorization by the authorized officer. Approval to proceed will be based upon evaluation of the resource. Evaluation shall be by a qualified professional selected by the authorized officer from a federal agency insofar as practicable. When not practicable, the holder shall bear the cost of the services of a non-federal professional.

Within five working days the authorized officer will inform the holder as to:

- whether the materials appear eligible for the National Register of Historic Places;
- the mitigation measures the holder will likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- a time frame for the authorized officer to complete an expedited review under 36 CFR 800.11, or any agreements in lieu thereof, to confirm through the State Historic Preservation Officer that the findings of the authorized officer are correct and the mitigation is appropriate.

The proponent may relocate activities to avoid the expense of mitigation and/or the delays associated with this process, as long as the new area has been appropriately cleared of resources and the exposed materials are recorded and stabilized. Otherwise, the proponent will be responsible for mitigation costs. The authorized officer will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the authorized officer that the required mitigation has been completed, the proponent will then be allowed to resume construction.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource will also be included in this evaluation and/or mitigation.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest, identified or unidentified, that are outside of the authorization and not associated with the resource within the authorization will also be protected. Impacts that occur to such resources, that are related to

the authorizations activities, will be mitigated at the proponent's cost including Native American consultation.

Pursuant to 43 CFR 10.4 (g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

14. Weed Management: The project proponent is required to monitor the R.O.W. for the presence of any Colorado-listed noxious weeds at least once or twice annually during the growing season until final reclamation of the pad is complete. The project proponent will promptly treat and control any noxious weeds. A Pesticide Use Proposal must be approved by BLM prior to the use of herbicides.

15. Seed Mix Application Practices: A specified seed mix designed to meet interim reclamation standards while providing forage and browse for wintering elk and deer using a mixture of native shrubs and grasses and native or desirable non-native forbs shall be applied. The following seed mix and rates will be used on all disturbed surfaces:

<u>Species of Seed</u>	<u>Variety</u>	<u>Application Rate* (PLS lbs/ac)</u>
Western wheatgrass	Arriba	5.0
Indian ricegrass	Paloma	2.5
Bottlebrush squirreltail		<u>2.5</u>
TOTAL		10 PLS lbs

* The above application rate is for drilled seeding. In areas that cannot be drilled, broadcast seed at twice the application rate and cover ¼ to ½ inch deep with a harrow or drag bar.

The above rate of application is listed in pounds of pure live seed (PLS)/acre. The seed will be certified free of noxious weeds. All seed to be applied to public land must have a valid seed test, within one year of the acceptance date, from a seed analysis lab by a registered seed analyst (Association of Official Seed Analysts). The seed lab shall show no more than 0.5 percent by weight of “other weed” seeds; and the seed lot shall contain no “noxious, prohibited, or restricted weed” seeds according to the All States Noxious Test. Seed may contain up to 2.0 percent of “other crop” seed by weight which includes the seed of other agronomic crops and native plants; however, a lower percent of other crop seed is recommended. Seed tags or other official documentation shall be supplied to the Glenwood Springs BLM Field Office Ecologist at least 14 days prior to the date of proposed seeding for acceptance. Seed which does not meet the above criteria shall not be applied to public lands.

The prepared seedbed will be seeded within 24 hours after completing dirt work unless a change is requested by the operator and approved by the Authorized Officer. Prepare the seedbed by contour cultivating 4-6 inches deep. **Drill seed ¼ to ½ inch deep** following the contour. All seeding will be conducted after September 1 and prior to ground frost. Spring seeding will be done after the frost leaves the ground and no later than May 15th.

Erosion Control Practices

The cut and fill slopes will be protected against rilling and erosion with measures such as water bars, lateral furrows, or other measures approved by the Authorized Officer. Weed free straw bales, straw “wattles”, straw matting or a well-anchored fabric silt fence will be used on cuts and fill slopes to protect against soil erosion.